IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 290 of 1998

Between:

Agha Mustafa Hussain, S/o.Askari Hussain,
R/o.22-8-545 , Puranahaveli, Hyderabad.

..... PETITIONER

AND

1 The Chairman, Andhra Pradesh State Electricity Board,
Vidyuthsoudha, Panjagutta, Hyderabad.
2 The Chief Engineer, APSEB Electricity-in-Charge of
Administration, VidyuthSoudha, Paanjagutta, Hyderabad.
3 The Superintending Engineer, Operation Rural,
APSEB , Mint Compound, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue any Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the impugned termination order in Memo No.SE/OP/R/Hyd/F.No.370/Peshi/D.No.488, dt.19-10-1990 on the file of the 3rd respondent as illegal, arbitrary, without jurisdiction, unconstitutional and in violation of APSEB Service Regulations & Leave Regulations attached to them and as also Violation of Articles 14, 16(1), 19(1) (g), 21,311(2) of the Constitution of India, principles of Natural Justice ,and consequently directing the respondents to pay all the leave salary from 1-2-1987 and for the extended periods of leave and pay his regularly salary till the date of his retirement and fix his pension , gratuity etc., and grant such other relief.

Counsel for the Petitioner: MR.KRISHNA MURTHY ATTIVILLI (Not present)

Counsel for the Respondents: MR.S.RAVINDRANATH, SC for APSEB

The Court made the following ORDER:

ORDER:

When the matter was called on 22.06.2004, none appeared for the petitioner. Therefore, the matter was directed to be listed for dismissal. Again the matter was listed on 11.11.2004. On that day also, none appeared. Hence, it was posted to today
'for dismissal'. Even today, when the matter is called, none appeared for the petitioner and no representation was made on his behalf.

The services of the petitioner were terminated since he absconded from duty for more than two years continuously without any kind of leave or prior permission or intimation to the concerned Officers. The respondents have conducted a detailed enquiry in the matter and issued show cause notice to the petitioner calling explanation for his absence. Having not satisfied with the explanation given by the petitioner, his services were terminated as per B.P.M.S.No.930 dated 18.12.1987.

Though the petitioner was given an opportunity of filing an appeal against the order of termination dated 19.10.1990 he did not avail the same and has chosen to file this writ petition challenging the order dt.27.12.1997 i.e., with a delay of more than 7½ years.

I have gone through the affidavit, filed in support of the writ petition and counter-affidavit and the impugned proceedings.
It is the case of the petitioner that the enquiry was conducted without giving any opportunity to him. But on the reading of the impugned proceedings, it is clear that an enquiry was conducted and he was served with a show cause notice on 22.06.1990. In fact the petitioner submitted his explanation on 05.07.1990, thereafter, final orders were passed on 19.10.1990. Though the petitioner had an alternative and effective remedy of appeal, he did not choose to do so and venture to file this writ petition.

On behalf of the respondents, a detailed counter-affidavit has been filed

denying the allegations made by the petitioner. It is asserted that the petitioner absconded from duty w.e.f.01.02.1987 and he neither applied any kind of leave nor submitted any request for transfer. The petitioner misrepresented to the S.E (Operation), Hyderabad, stating that he has been surrendered and requested the third respondent – SE/O/R/Hyderabad to issue re-posting orders whereas the Divisional Engineer Electrical (Operations), Sangareddy, reported that he was not surrendered but absconded from duty. Therefore, a detailed enquiry was conducted after giving reasonable opportunity to the petitioner and his services were terminated on 19.10.1990 as per B.P.Ms.930 dated 18.12.1987.

Admittedly, this writ petition is filed with irretrievable laches of more than 7½ years and on that ground the writ petition is liable to be dismissed. Apart from the said fact, the respondents have passed the termination order since the petitioner failed to attend his duties unauthorisedly for more than two years, for which, there is no plausible explanation from the petitioner. Therefore, for all the above reasons, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.Ramulu, J

19th November, 2004

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To

1 The Chairman, Andhra Pradesh State Electricity Board,
Vidyuthsoudha, Panjagutta, Hyderabad.
2 The Chief Engineer, APSEB Electricity-in-Charge of
Administration, VidyuthSoudha, Paanjagutta, Hyderabad.
3 The Superintending Engineer, Operation Rural,
APSEB , Mint Compound, Hyderabad.

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